

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

Vivienne C.,

Petitioner,

vs.

GOLDEN GATE REGIONAL CENTER
REGIONAL CENTER,

Respondent.

OAH No. N 2006120313

(Early Intervention Services Act,
Gov. Code, § 95000 et seq.)

DECISION

This matter was heard before Michael C. Cohn, Administrative Law Judge, State of California, Office of Administrative Hearings, in Oakland, California, on January 12 and 19, 2007.

Petitioner was represented by her parents.

Respondent Golden Gate Regional Center (GGRC) was represented by Lisa Rosene, LCSW, Chief, Social Work Services.

The matter was originally submitted for decision on January 19, 2007. However, on January 22, 2007, petitioner submitted a letter containing additional legal argument. The record was reopened, petitioner's letter was marked as Exhibit 11 for identification, and GGRC was given until January 31, 2007, to submit a response. On January 30, GGRC requested an additional two days to submit its response. This request was granted. GGRC's response was received on February 2, 2007, and was marked as Exhibit G for identification. The matter was thereupon deemed submitted for decision on February 2, 2007.

ISSUES

The issues are:

1. Whether GGRC is required to reimburse petitioner for the cost of transportation (mileage, tolls, parking, and vehicle repairs) associated with accessing specified service and medical appointments.

2. Whether GGRC is required to continue providing petitioner aquatic therapy services.
3. Whether GGRC is required to grant petitioner's request for a new case coordinator.
4. Whether, in addition to the transportation costs requested in the first issue, GGRC is required to pay petitioner's parents an hourly rate for the time they spent transporting her to various service and medical appointments.

FINDINGS AND CONCLUSIONS

I. Applicable Law

The Individuals with Disabilities Education Act, Part C, title 20 United States Code sections 1431-1445, established a program in which states were provided federal funds to develop and implement a statewide multidisciplinary system to provide early intervention services for infants and toddlers with disabilities and those who would be at risk of having substantial developmental delay if they did not receive early intervention services. (20 U.S.C. § 1431(b).) Regulations applicable to the early intervention program are found in 34 Code of Federal Regulations sections 303-303.654. In California, the early intervention program was established pursuant to the California Early Intervention Services Act, Government Code sections 95000-95029, and its implementing regulations, California Code of Regulations, title 17, sections 52000-52175. This federally funded program is known in California as "Early Start." In providing Early Start services, regional centers are also required to comply with the Lanterman Developmental Disabilities Services Act, Government Code sections 4500-4867, and its implementing regulations, California Code of Regulations, title 17, sections 50201-50992. (Gov. Code, § 95004, subd. (b)(1).)

II. Factual and Procedural Background

Petitioner is 33 months old. She suffers from a rare chromosomal genetic disorder that has caused significant deficits in many physical and developmental areas. Petitioner has received Early Start services through GGRC since December 2005, when she was 20 months old. Petitioner's initial Individualized Family Service Plan (IFSP) identified the services needed by petitioner as physical therapy, speech therapy, and home teaching. Subsequent IFSPs written between February 14 and December 1, 2006, added in-home respite, occupational therapy, aquatic therapy, parental therapy, and behavioral intervention services, as well as reimbursement for specialized therapeutic equipment and transportation to and from early intervention services.

At some time prior to November 13, 2006, petitioner's parents submitted to GGRC a request for reimbursement of transportation expenses they had incurred. On November 16, Lisa Rosene, GGRC's Chief, Social Work Services, sent petitioner's parents a letter explaining that the request for reimbursement had been reviewed and that while some of the

expenses would be reimbursed, others would be denied. On November 30, 2006, GGRC sent petitioner two Notices of Proposed Action. One denied funding for repair of the family vehicle used to transport petitioner to appointments. The other denied reimbursement to petitioner's mother for the time she spent accompanying her daughter to and from appointments.

On December 11, 2006, petitioner's parents filed on her behalf a request for due process hearing. They cited nine specific "disagreements" with GGRC. The matter was set to be heard on December 27, 2006. On December 18, GGRC requested a continuance, which petitioner's parents initially opposed. However, they subsequently withdrew that opposition and on December 22, 2006, petitioner's father signed a waiver of the 30-day time limit set forth in California Code of Regulations, title 17, section 52174. On that same date, Administrative Law Judge Nancy L. Rasmussen issued an order continuing the hearing to January 12 and 19, 2007. In her order, Judge Rasmussen noted that petitioner's father indicated petitioner intended to pursue at the hearing only the first six of the nine disagreements set forth in the hearing request. This intent to proceed only with Disagreements 1 through 6 was confirmed at the outset of the hearing on January 12. At the hearing on January 19, GGRC stipulated it would make the equipment reimbursement that was the subject of Disagreement 5. In addition, petitioner's parents withdrew from this proceeding Disagreement 6, which related to funding of an in-home treatment program. This left for resolution in this proceeding only Disagreements 1 through 4, which are represented by the four issues set forth above.

III. Issues 1 and 4: (1) *Is GGRC is required to reimburse petitioner for the cost of transportation (mileage, tolls, parking, and vehicle repairs) associated with accessing specified service and medical appointments?*; (4) *Is GGRC required to pay petitioner's parents an hourly rate for the time they spent transporting her to various service and medical appointments?*

In their Disagreement 1, petitioner's parents wrote: "[Petitioner] is entitled to the transportation costs . . . associated with the appointments from the date of initial intake in December 2005 until she turns three years of age in April 2007. The Golden Gate Regional Center informed the family via written correspondence dated November 16, 2006, that they would provide transportation costs to [petitioner] for only a portion of the appointments she is entitled to." They sought reimbursement of the following costs:

Easter Seals Therapeutic Group (Oct-Nov 2006) (mileage)	\$ 23.25
Recreation/socialization YMCA (Jan-Nov 2006) (mileage)	1,446.83
Medical appointments (Jan-Nov 2006) (mileage)	366.36
Tolls & parking for medical appointments (Jan-Nov 2006)	110.00
Craniosacral PT appointments (Jun-Sept 2006) (mileage)	39.75
Mechanical breakdown during transport (April 2006)	1,250.00

In their Disagreement 4, petitioner's parents sought reimbursement for the time spent taking her to various appointments. Calculated at the "standard rate of \$15," they sought reimbursement of the following amounts:

Physical therapy appointments (Jan-Nov 2006)	\$ 675.00
Speech therapy appointments (Feb-Nov 2006)	1,095.00
Occupational therapy appointments (Mar-Nov 2006)	540.00
Aquatic therapy appointments (Jun-Nov 2006)	360.00
Easter Seals Therapeutic Group (Oct-Nov 2006)	30.00
Recreation/socialization YMCA (Jan-Nov 2006)	2,865.00
Medical appointments (Jan-Nov 2006)	375.00
Craniosacral PT appointments (Jun-Sept 2006)	150.00

34 Code of Federal Regulations section 303.12 lists early intervention services. These include "transportation and related costs," which "includes the cost of travel (e.g., mileage, or travel by taxi, common carrier or other means) and other costs (e.g., tolls and parking expenses) that are necessary to enable a child . . . and the child's family to receive early intervention services." (34 C.F.R. § 303.12(d)(15).)

Petitioner's parents had asked GGRC about reimbursement for transportation expenses as early as February 2006. But it was not until early November 2006 that they were advised they were entitled to such reimbursement. At some time in November, petitioner's parents submitted to GGRC a claim for reimbursement of transportation expenses through October 2006. That claim included a request for mileage reimbursement, at a rate of 41 cents per mile, for attending each of the appointments or groups set forth above, as well as for family psychotherapy and respite. The claim also included a request for reimbursement of bridge tolls and parking costs related to medical appointments in San Francisco.

On November 16, 2006, Lisa Rosene sent petitioner's parents a letter setting forth those items for which GGRC would make reimbursement. She explained that mileage reimbursement would be made only for those things included in petitioner's IFSP, which were detailed as "physical therapy, occupational therapy, speech therapy, infant development program . . . , augmented communication evaluation, aquatic therapy, family psychotherapy, and medical appointments for neurology and genetics," and that this reimbursement would be "at the state rate of 37.5 cents per mile, not the federal rate of 41 cents per mile." Rosene also explained that no reimbursement would be made for the mechanical breakdown, that no reimbursement for "mileage for in-home respite" would be made unless the need for such a reimbursement was clarified, and that mileage to family psychotherapy would not be paid for June 2006 since this service was not authorized in the IFSP until July 27, 2006. Finally, Rosene stated that "all claims for November 2006 and subsequent months will be reimbursed in arrears." Petitioner's parents apparently did not dispute the allowance of only 37.5 cents per mile and on December 1, 2006 prepared a revised claim showing mileage at that rate. The mileage reimbursement amounts contained in Disagreement 1 and shown above are based upon that rate.

Easter Seals Therapeutic Group

This claim, for \$23.25 for October 2006, was included as an approved item in Ms. Rosene's November 16, 2006 letter. It was included in the reimbursement check for \$1,683.45 that was received by petitioner's parents shortly after this date. It is unclear why it remained included in Disagreement 1. Despite the reference to "(Oct-Nov 2006)" in Disagreement 1, petitioner's parents did not document any trips to the Easter Seals Group in November 2006.

Recreation/socialization YMCA

Petitioner and her mother are members of the YMCA in Marin County. They have been members since petitioner was six months old, more than a year before she began receiving Early Start services. Petitioner attends the YMCA's ChildWatch program for two hours a day, four to five days a week, while her mother is at the YMCA.

GGRC maintains it is not required to pay for mileage to the YMCA for two reasons. First, "recreation/socialization" is not a service that has been approved for petitioner in her IFSP. Second, GGRC maintains that petitioner attends a YMCA playgroup while her mother exercises, and that this is a babysitting or child care service, not a recreation/socialization group. Petitioner's parents concede that ChildWatch is a day care program¹ but maintain they use it for socialization since it is one of the few places that will take disabled children. The activities that are done in ChildWatch, including art, puppetry, and recreation, help socialize petitioner and are therapeutic for her. ChildWatch also provides her with role models and allows her to socialize with non-disabled children; it is effectively a way to "mainstream" petitioner. Petitioner's parents maintain that it was at ChildWatch that petitioner first began doing various activities, and that petitioner's therapists have commented upon the fact that the program has benefited her. Petitioner's parents assert that many, if not all, of petitioner's IFSPs were "not duly formed" because the parents had not been informed of the full scope of services that might be available and that they therefore signed off on those IFSPs without knowing to request certain services, including recreation/socialization. Thus, they contend, the fact that recreation/socialization is not included in petitioner's IFSP does not bar them from seeking reimbursement for transportation to that service. On November 2, 2006, petitioner's parents filed a complaint against GGRC with the Department of Developmental Services, contesting the legitimacy of their IFSP meetings.

Petitioner is not entitled to reimbursement for costs of transportation to the ChildWatch program. First, the program is not included in her IFSP. GGRC has instead funded as a recreation and socialization program the Easter Seals Infant Group, and has

¹ The YMCA's membership brochure describes ChildWatch as: "A babysitting service [that] is available to members on-site in a safe, sunny well-equipped indoor/outdoor play environment. Children 7 weeks to 7 years are welcome to play in ChildWatch for up to two hours per day. A parent must remain on-site during this time." There is no charge for the program to family members of the YMCA.

reimbursed petitioner the mileage costs to that program. Although petitioner's parents maintain petitioner's IFSPs were not duly formed, the evidence does not suggest that. In addition, they have raised this claim in their complaint to the Department of Developmental Services and that department will resolve the issue. Second, it does not appear that petitioner's mother makes any special trips to the YMCA to take her daughter to ChildWatch. Petitioner is in that program only when her mother is using the YMCA's facilities and services herself. This has been the case since before petitioner became a GGRC client. Even if ChildWatch were used as a socialization program, paying petitioner's parents to take trips they would have taken anyway would not be a proper use of public funds. Petitioner is not entitled to reimbursement for trips to the YMCA.

Medical appointments

On their December 1, 2006 chart showing medical appointments for which reimbursement was claimed between January and October 2006, petitioner's parents requested payment for two 178-mile trips to Sacramento, nine 24-mile trips to San Francisco, five 20.2-mile trips to Terra Linda, one 51.6-mile trip to Petaluma and one 5.5-mile trip to Mill Valley. In Ms. Rosene's November 16, 2006 letter, GGRC agreed to pay mileage for all these medical appointments except for those in Petaluma and Mill Valley. Payment was included in the \$1,683.45 check sent to petitioner's parents.

The trip to Mill Valley (in June 2006) was to a pediatrician for a consultation regarding nutritional services. GGRC had denied funding for that consultation and had issued a Notice of Action that petitioner's parents did not appeal. Because the consultation had not been approved, GGRC declined to pay the cost of transportation to that appointment. The trip to Petaluma (in January 2006) was for a hearing test. There are no indications in petitioner's IFSPs that this test was related to her developmental disabilities.

GGRC is not required to reimburse petitioner for mileage to the Mill Valley and Petaluma medical appointments. There was no showing that the trip to a hearing specialist was related to petitioner's Early Start services. Similarly, petitioner's request for a medical consultation in Mill Valley was denied by GGRC and that denial was not appealed. Since that service is not part of the IFSP, transportation to it is not a reimbursable cost.

On their December 1, 2006 chart petitioner's parents also make claim for reimbursement for four medical appointments in November 2006: two trips to San Francisco, one to Sacramento, and one to Terra Linda. GGRC does not deny that petitioner is entitled to reimbursement for these trips. The claim was not received until after petitioner's parents had filed their request for a due process hearing and GGRC withheld payment pending the hearing.

GGRC is required to make reimbursement for these November trips in the amount of \$92.33. Although petitioner's Disagreement 1 sought funding for transportation costs through her third birthday, a blanket prospective order would not be appropriate. However, GGRC is willing to provide reimbursement for future medical appointments within the IFSP.

Tolls & parking for medical appointments

Petitioner requested reimbursement for \$5.00 bridge tolls for each of the nine trips to San Francisco between January and October 2006 and for \$5.00 parking for each of those appointments. GGRC's \$1,683.45 check included reimbursement for the bridge tolls but not the parking. Petitioner's parents were requested to provide receipts for the parking fees but have never done so. They maintained at hearing that they did not present receipts to GGRC because they had not kept any since petitioner's case coordinator had told them in February 2006 that they were not entitled to reimbursement for transportation expenses.

On their December 1, 2006 chart petitioner's parents also make claim for tolls and parking for the two visits to San Francisco made in November 2006. GGRC withheld reimbursement of the tolls pending this hearing. It declines to pay parking absent receipts.

GGRC has already paid tolls for the period January through October 2006. It shall also pay tolls for November 2006 in the amount of \$10.00. GGRC is willing to pay parking fees provided petitioner's parents produce receipts. But they do not have receipts for the January through October 2006 period because they were not advised they needed to retain receipts. They should not be penalized by GGRC's failure to advise them of this necessity. GGRC shall pay the parking costs of \$55.00 for the period January through October 2006. Petitioner's parents were put on notice in November 2006 that GGRC required receipts before it would reimburse parking costs. Yet no receipts for November have yet been provided. GGRC shall pay parking costs for November 2006 forward only if petitioner's parents provide the necessary receipts.

Craniosacral PT appointments

On a date not established in the record, petitioner's parents had requested that petitioner receive craniosacral physical therapy services. This request was denied by GGRC and a Notice of Action was sent. Petitioner's parents did not appeal this denial, choosing instead to pay for it themselves. Despite the denial of this service, they maintain they are entitled to reimbursement for transportation to the craniosacral physical therapy appointments because, as set forth above, petitioner's IFSPs were "not duly formed."

As with the case of the medical consultation in Mill Valley, petitioner is not entitled to reimbursement for transportation costs to these appointments since they were not a part of the IFSP.

Mechanical breakdown during transport

Petitioner's parents own two vehicles. One is a Jeep Grand Cherokee, which is what they generally use to transport petitioner to appointments. In April 2006, the Jeep overheated and suffered radiator damage en route to one of petitioner's appointments. Petitioner's

parents believe GGRC should reimburse them the cost of repairs since the vehicle is used to allow petitioner to access services.

Welfare and Institutions Code section 4512, subdivision (b) provides that regional center clients are entitled to receive “transportation services necessary to ensure delivery of services to persons with developmental disabilities.” Similarly, title 20 United States Code section 1432(4)(E)(xiv) provides that early intervention services include “transportation and related costs that are necessary to enable an infant or toddler . . . to receive another service . . .” But “transportation and related costs” are only more fully defined in 34 Code of Federal Regulations section 303.12. That section makes no reference to including vehicle repair costs.

The mere fact that petitioner’s parents use their own vehicle to transport petitioner to service and medical appointments does not place the burden of maintaining that vehicle upon GGRC. A fair reading of the definition of “transportation and related costs” would be to limit reimbursement only to those costs directly attributable to transporting a child. Although the breakdown in question occurred while transporting petitioner, it cannot be shown that the breakdown was directly attributable to this trip. There is no evidence in the record to show how often the vehicle is driven to early intervention services and appointments compared to how often it is driven for other purposes. The breakdown in question could well have been attributable to general use of the vehicle, not the specific use of transporting petitioner. GGRC is not required to make reimbursement of the cost of repairs.

Reimbursement for time spent transporting petitioner

In November 2006, petitioner’s parents requested that GGRC reimburse them for the time her mother spent transporting petitioner to service and medical appointments. They have asked to be reimbursed at a rate of \$15 per hour, which they believe to be the “standard hourly rate” for “social work assistants” who provide day care. In computing the amount to which they believe they are entitled, however, petitioner’s parents multiplied \$15 times the number of petitioner’s appointments, not the number of hours spent in transporting her to those appointments. The precise genesis of this request is unclear, but it may have come after petitioner’s parents learned that GGRC sometimes paid the cost of taxis to take consumers to various appointments and it appears to be related to the fact that petitioner’s mother quit her job in order to provide full-time care for her daughter. Petitioner’s mother left her job as director of mental health services for a foster care agency at the end of December 2005 to be able to better care for her daughter. She believes that, had she not quit her job, GGRC would have been required to pay an aide to transport her daughter to her appointments.

In a Notice of Action dated November 30, 2006, GGRC denied the request stating, “Parents are considered a natural support for minor children. Accompanying children to appointments for medical care is considered one of the many responsibilities of a parent of any child.”

Regional centers are subject to certain fiscal constraints and budgetary limits. They are required to provide needed services and supports in a cost-effective manner. (Welf. & Inst. Code, §§ 4640.7, subd. (b); 4646, subd. (a); and 4648, subd. (a)(11)).) In order to implement this requirement, a service agency must first look to available natural supports or generic resources to provide services before it expends service agency resources for them. Parents are a “natural support” and regional centers are not to purchase services for a minor child without first taking into account the family's responsibility for providing similar services to a minor child without disabilities. (Cal. Code Regs., tit. 17, § 54326, subd. (d)(1).) In other words, neither Early Start nor the Lanterman Act relieves parents of their primary responsibility for caring for their children. Accompanying children to medical appointments is a responsibility that all parents have in common, regardless of the developmental status of their child. In this case, petitioner’s mother is able to, and does, accompany her daughter to service and medical appointments. That she may have quit her job to be able to better care for her daughter does not change her underlying parental responsibility. GGRC is not required to reimburse petitioner’s mother for the time spent accompanying her daughter to appointments.

IV. Issue 2: *Is GGRC is required to continue providing petitioner aquatic therapy services?*

In petitioner’s IFSP of May 25, 2006, GGRC authorized petitioner to receive five sessions per month of aquatic therapy from June 5 through December 31, 2006. These were set to be 30-minute sessions. Petitioner’s parents subsequently requested that the sessions be increased to 45 minutes each. In petitioner’s IFSP of August 9, 2006, GGRC agreed to this increase. On the IFSP, service coordinator Pat Albrecht wrote that the duration of these services was to be “8/16/06 – 4/16/07.” Petitioner’s eligibility for Early Start services ends on April 16, 2007, her third birthday. This IFSP was signed by petitioner’s mother.

Some time later, Albrecht realized the dates of service she had written on the IFSP were incorrect. It is GGRC’s policy to authorize aquatic therapy services for six months. At that time, the interdisciplinary team re-evaluates the need for continued services, based in part upon a report from Aquatic Therapy Associates, the service provider. The increase in aquatic therapy sessions from 30 minutes to 45 minutes was intended to run only until the end of the initial authorization period – December 31, 2006 – and not until petitioner’s third birthday. Albrecht then crossed out the “4/17/07” date on the IFSP and replaced it with “12/31/06.” She initialed the change.

On August 25, 2006, Albrecht sent petitioner’s parents a copy of the August 9, 2006 IFSP. Albrecht believes she included the IFSP she had revised to correct the dates of service. Petitioner’s parents assert this changed version of the IFSP was not included in the August 25 letter, and that they did not see the changed version until they filed their complaint with the Department of Developmental Services on November 2, 2006.

On November 28, 2006, Aquatic Therapy Associates issued a report concerning petitioner's progress in aquatic therapy. They recommended continuing the service once a week until petitioner's third birthday. This recommendation was among those items to be discussed at an IFSP meeting scheduled for December 7, 2006. That meeting was never held. Petitioner's parents maintain GGRC cancelled the meeting because its attorney was not available to attend. GGRC maintains the meeting was cancelled because petitioner's parents had refused to attend.

There has been no break in service of petitioner's aquatic therapy. Although no IFSP meeting has been held to discuss continuing the service, as of the date of the hearing GGRC had authorized the service to continue until January 31, 2007. GGRC does not contest that petitioner is entitled to receive aquatic therapy until her third birthday as recommended by Aquatic Therapy Associates. It will apparently continue to fund this service even though an IFSP meeting has not been held.

V. Issue 3: *Is GGRC is required to grant petitioner's request for a new case coordinator?*

Early Start service coordinator Pat Albrecht began working with petitioner's family in November 2005. She was petitioner's case coordinator until November 2, 2006. Petitioner's parents became dissatisfied with Albrecht due to what they considered her unwillingness to provide them with information about available services. The day after a contentious telephone call with Albrecht on November 2, 2006, petitioner's father called Albrecht's supervisor, Eileen Pruitt, a Supervising Social Worker in GGRC's Marin County office. He said he was dissatisfied with Albrecht and wanted a new service coordinator. During that telephone call Pruitt told petitioner's father that she would assign Shari Roll to be petitioner's new coordinator.

On November 30, 2006, Lisa Rosene sent a letter to petitioner's parents in which she stated, "Ms. Roll is preparing the IFSP paperwork required to reimburse you for the transportation amounts delineated in my letter to you of November 16, 2006. She will be giving you the required form to obtain your written permission as required by law. Once that is received, I will request that an expedited, manual check be sent to you. [¶] There are items listed on your transportation reimbursement request (e.g., the socialization group) that were not included in prior IFSP's but can be discussed with your new IFSP team."

On December 1, 2006, Roll hand-delivered this letter to petitioner's father at his home along with an IFSP amendment she had prepared reflecting reimbursement of \$1,683.45 for transportation expenses. According to petitioner's father, this was to be a "meet and greet" meeting. Roll considered it an IFSP meeting. Petitioner's father said that Roll "wanted to engage in a he said/she said" about Albrecht and the meeting became contentious. He said that Roll's mannerisms were "abrupt and not friendly" and he perceived her to be more concerned about GGRC's interests than his daughter's. She "thrust" papers at him and said he was "a well-informed dad." Petitioner's father found this statement to be "patronizing and demeaning." Overall, he felt Roll was "directly or

indirectly” “condescending” and “belittling” towards him. Petitioner’s mother, who did not meet Roll until the hearing in this matter, feels that Roll is “not a good fit” and has caused her anxiety because of the situation where the family learned at the last moment that aquatic therapy was going to be discontinued at the end of December 2006.

On December 4, petitioner’s father sent a letter to Rosene. Among other things, he stated:

As we discussed telephonically on November 30, recreation and socialization activities are contained in the IFSP and you agreed that the mileage associated with these services would also be remitted. The new case coordinator, who stated that she also spoke to you in order to strategize on the evening prior to the meeting, refused to include the monies owed and added it to the proposed agenda for the “team meeting.” Upon reviewing Ms. Roll’s letter dated November 30, 2006, as well as the notes from the IFSP meeting of December 1, 2006, it is apparent that Ms. Roll has no interest in advocating for our daughter. Thus, we do not foresee any possibility of her remaining as the case coordinator. Therefore we are requesting a change of case coordinator. With regard to this request, we expect to be notified in writing within 10 days of receipt of this letter as to our new case coordinator.

Rosene responded to this letter on December 7, denying the request for a new case coordinator. As explained in that letter, and by Eileen Pruitt in testimony at the hearing, GGRC has three Early Start case coordinators in Marin County – Albrecht, Roll, and Ross Laughlin. Laughlin is the only bilingual coordinator and he is assigned to a full caseload of Spanish-speaking families. He cannot be assigned to a solely English-speaking family. At the time of Rosene’s letter and when the hearing began, there were two supervisors and an assistant chief in the Marin office. The assistant chief was on long-term medical leave and the two supervisors, one of whom was Pruitt, were performing her duties as well as their own. (Between the two hearing dates in this matter, the assistant chief passed away.) GGRC’s supervisors are not responsible for handling individual cases. GGRC asserts it would not be feasible to assign a case coordinator from the San Francisco or San Mateo offices to a case in Marin County.

Despite Rosene’s December 7 letter, GGRC has allowed petitioner’s parents to work through Pruitt rather than Roll. They would like her to continue as case coordinator. However, as set forth above, GGRC’s supervisors do not handle individual cases. Pruitt’s current duties include supervising the Early Start unit, the assessment and intake unit, and five social workers. In addition, she is covering part of the duties of the assistant chief. Those duties include supervising three other supervisors, attending management meetings in the San Francisco office, and dealing with all vendors and community agencies. Those duties do not leave her time to devote sufficient attention to any single client’s case.

State and federal early intervention statutes and regulations require regional centers to assign service coordinators for Early Start clients. (34 C.F.R. § 303.23(a)(2); Gov. Code, § 95018; Cal. Code Regs., tit. 17, § 52120.) The Lanterman Act, provisions of which are made applicable to Early Start clients through Government Code section 95004, subd. (b)(1), provides that “no person shall continue to serve as a service coordinator . . . unless there is agreement by all parties that the person should continue to serve as service coordinator.” (Welf. & Inst. Code, § 4647, subd. (b).) It is this last section upon which petitioner’s parents rely in their request for a new service coordinator.

By its nature, the relationship between a regional center, its consumers, and their families, must be a collaborative one. Unfortunately, the relationship between GGRC and petitioner’s family has disintegrated to some extent into distrust, and perhaps dislike, of one another. From an objective point of view, petitioner’s parents did not give Roll an opportunity to act as service coordinator before seeking her replacement, demanding her replacement after just one visit. Petitioner’s father’s assertion that Roll refused to include reimbursement for mileage to the YMCA program after Rosene had agreed to include it is not true; Rosene had stated in her November 30 letter that this reimbursement would not be made. His view that Roll’s referring to him as a “well-informed dad” was “patronizing and demeaning” is difficult to fathom. And petitioner’s mother’s assertion that Roll is not a good fit because of the aquatic therapy situation is equally difficult to understand. It was Albrecht, not Roll, who was petitioner’s service coordinator at the time of the confusion concerning the status of this service. By the time Roll was named service coordinator on November 3, 2006, petitioner’s parents had become aware of the aquatic therapy situation and there is no indication that Roll had any involvement at all in the confusion.

As indicated above, regional centers are subject to certain fiscal constraints and budgetary limits. This naturally includes staffing and it is reasonable to expect that a service agency would be entitled to allocate staff in a manner it finds financially and organizationally feasible. However, Welfare and Institutions Code section 4647, subdivision (b), does give a consumer what appears to be veto power over a service agency’s appointment of a service coordinator. Of course, at some point it may become impossible for a service agency to honor a consumer’s request for a new service coordinator due to lack of staff. That does not yet appear to be the situation here. Although it will not be particularly feasible for GGRC to assign petitioner either a service coordinator from one of its other offices or a supervisor in its Marin office, section 4647 mandates that an accommodation be made to satisfy petitioner’s request regardless of the objective merits of that request.

VI. Conclusion

Issue 1: GGRC has already reimbursed petitioner’s parents for mileage to the Easter Seals Therapeutic Group in October 2006, and to medical appointments in Sacramento, San Francisco, and Terra Linda in January through October 2006, and for bridge tolls related to medical appointments in January through October 2006. No further reimbursement is required for those appointments. GGRC is not required to provide mileage reimbursement

for attendance at the YMCA ChildWatch program, for the medical appointments in Petaluma and Mill Valley, or for craniosacral physical therapy appointments. Nor is GGRC required to provide reimbursement for the cost of vehicle repairs due to a mechanical breakdown.

GGRC shall reimburse petitioner's parents \$92.33 in mileage for medical appointments in November 2006, \$10.00 for bridge tolls in November 2006, and \$55.00 in parking costs for January through October 2006. GGRC shall reimburse petitioner's parents for parking costs in November 2006 only upon provision of receipts.

Issue 2: This issue is essentially moot. GGRC does not contest that petitioner is entitled to receive aquatic therapy services until her third birthday. It shall continue to fund such services.

Issue 3: GGRC shall assign petitioner a new service coordinator.

Issue 4: GGRC is not required to pay petitioner's parents an hourly rate for time spent accompanying their daughter to service and medical appointments.

ORDER

Petitioner's appeal is granted in part. GGRC shall reimburse petitioner's parents \$157.33 in transportation costs, shall reimburse them for receipt-supported parking fees for November 2006, shall continue to fund aquatic therapy until petitioner's third birthday, and shall assign petitioner a new service coordinator.

In all other respects, petitioner's appeal is denied.

DATED: _____

MICHAEL C. COHN
Administrative Law Judge
Office of Administrative Hearings